

ORDER NO. 4091

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Priority Mail & First-Class Package Service Contract 24
(MC2016-173)
Negotiated Service Agreements

Docket No. CP2016-252

ORDER APPROVING AMENDMENT TO
PRIORITY MAIL & FIRST-CLASS PACKAGE SERVICE NEGOTIATED SERVICE
AGREEMENT

(Issued September 8, 2017)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail & First-Class Package Service negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail & First-Class Package Service Contract 24, August 30, 2017 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 3464, the Commission approved the Priority Mail & First-Class Package Service Contract 24 negotiated service agreement (Existing Agreement).² On August 30, 2017, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On August 31, 2017, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 1. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant

² See Docket Nos. MC2016-173 and CP2016-252, Order Adding Priority Mail & First-Class Package Service Contract 24 to the Competitive Product List, August 15, 2016 (Order No. 3464).

³ See Docket No. CP2016-252, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, August 31, 2017.

⁴ Public Representative Comments on Postal Service Notice of Change in Prices Pursuant to Amendment to Priority Mail & First-Class Package Service Contract 24, September 7, 2017 (PR Comments).

products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment substitutes fixed contract prices in place of volume-based tiered pricing and changes the wording of other contract terms to reflect the new pricing method. See Notice, Attachment A at 1-2. The Amendment also modifies the terms relating to the customer's volume commitment and payment methods. See *id.*

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Existing Agreement, as amended, is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.M. of the Existing Agreement, as amended, should allow it to cover costs for the duration of its term. The Commission will continue to review the cost coverage of the Existing Agreement, as amended, in its Annual Compliance Determination (ACD) to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its review. Notice at 1.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail & First-Class Package Service Contract 24 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary